IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 29558 of 1995

Between:

M. Chengaiah S/o Muthyalayya, R/o Mundlapudi village, Tirupati Rural Mandal, Chittoor.

..... PETITIONER

AND

1 The Revenue Divisional Officer,
Tirupati, Chittoor Dist.
2 The Mandal Revenue Officer,
Tirupati, Rural Mandal, Chitoor Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the order of the 1st respondent dated 26.10.1993 is contrary to law, arbitrary, discriminatory and violative of principles of natural justice, and violative of Articles 14,19 and 21 of the Constitution of India and consequently direct the respondents to assign the land admeasuring an extent of Ac.0.16 cents in S.No.461/2 of Mundlapudi village, Tirupati Rural Mandal, Chitoor Dist. in favour of the petitioner.

Counsel for the Petitioner: Mr.C.Ramachandra Raju

Counsel for the Respondent Nos.1 & 2: GP For Revenue

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the order of the 1st respondent dated 26-10-1993 as contrary to law and arbitrary and consequently to direct the respondents to assign the land admeasuring an extent of Ac.0-16 cents in S.No.461/2 of Mundlapudi village, Tirupathi Rural Mandal, Chittoor District in favour of the petitioner.

2. The factual matrix required to be taken note of, is as under:

The petitioner owns land admeasuring an extent of Ac.0-84 cents in S.No.460 of Mundlapudi village and since 30 years he is in possession and enjoyment of the same including poramboke land of Ac.0-16 cents. In an extent of Ac.0-05 cents, a banyan tree is existing and poojas are being performed to the Goddess Gurappa under the tree by the surrounding people. Due to the shadow of the said tree, the crops in which he is raising, are being badly effected. In spite of the representation dated 22-06-1993 made by the petitioner, to the Joint Collector requesting to remove the said tree, the 2nd respondent *vide* notice dated 30-06-1993 directed him not to cause any damages to the said tree. Thereafter, he came to know that the 1st

respondent *vide* his proceedings dated 26-10-1993 ordered that the land in question shall be entered in the Prohibitory Order Book on the ground that the Banyan tree is being worshipped as Diety by the villagers. The land in question is situated in the middle of his land and as such entering the said extent in prohibitory order, would cause much inconvenience for enjoyment of the remaining land. Hence, the writ petition.

3. A counter-affidavit is filed on behalf of the respondents. It is alleged that after conducting enquiries the 1st respondent issued proceedings prohibiting the assignment of land in question by entering the same into Prohibitory Order Book on the ground that nearly 100 houses of the surrounding families are performing poojas to the Goddess Gurappa under the tree.

4. Heard the learned counsel on either side.

5. I have perused the order impugned, under which an extent of Ac.0-05 cents have been ordered to be entered into Prohibitory Order Book. According to the petitioner, he is in peaceful possession and enjoyment of Ac.0.16 cents since 30 years along with his original land and the said land is situate in the midst of his land admeasuring Ac.0.84 cents. It is his further case that out of Ac.0.16 cents of poramboke land, a banyan tree is situated in Ac.0.05 cents of land and it is being worshipped as Goddess. In view of the public interest involved in respect of the banyan tree situate in Ac.0.05 cents of land and having regard to the fact that the people in the surrounding areas are performing poojas to the Goddess Gurappa under the tree, it would suffice, if liberty is granted to the petitioner to make a proper application to the Revenue Divisional Officer for assignment of land within a period of eight weeks from the date of receipt of a copy of this order and on such representation, the Revenue Divisional Officer is directed to dispose of the same in accordance with law without reference to the impugned order.

6. Subject to the above direction, this W.P. is disposed of. No costs.

23-09-2004

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To

1 The Revenue Divisional Officer,
Tirupati, Chittoor Dist.
2 The Mandal Revenue Officer,
Tirupati, Rural Mandal, Chitoor Dist.

3 Two CCs to GP for Revenue, High Court buildings

Hyderabad (OUT)

4 Two CD copies.